IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2247 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

N. A. CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2247 of 1991

MR DD VYAS for Petitioner No. 1

MR ND GOHIL, LD.AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 01/09/2004

ORAL JUDGEMENT

1. The petitioner by way of this petition has sought for change of birth date from 6th March 1933 to 6th March 1936. The Government has not permitted the same. Even otherwise the petitioner has retired and the matter is of 1991, and in view of the settled legal position. It is a policy of the Government that correction of birth date

should be done within five years and should not be allowed at the fag end of career.

2. In support of the same, Mr.Gohil, learned AGP for the respondent State has relied upon the judgment of the Hon'ble Supreme Court in the case of State of Punjab and others Vs. S.C.Chadha reported in (2004) 3 SCC 394, particularly on page 394 which reads as under:

> "Most of the States have framed statutory rules or in absence thereof issued administrative instructions as to how a claim made by a public servant in respect of correction of his date of birth in the service record is to be dealt with and what procedure is to be followed. In many such rules a period has been prescribed within which an application for correction of the date of birth can be entertained. The sole object of such rules is that any such claim regarding correction of the date of birth should not be made or entertained after decades, especially on the eve of superannuation of such public servant."

2.1 Mr.Gohil, learned AGP has relied upon another judgment of Hon'ble Supreme Court in the case of Secretary and Commissioner, Home Department and others Vs. R.Kirubakaran reported in 1994 Supp(1) SCC 155 particularly para 7 on page 158 the Hon'ble Supreme Court has observed as under:

> " An application for correction of the date of birth should not be dealt with by the tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process."

2.2 Mr.Gohil has also relied upon another judgment of the Hon'ble Supreme Court in the case of Burn Standard Co.Ltd. and others Vs. Dinabandhu Majumdar and another reported in 1995 SC 1499, particularly on page 1500 the Hon'ble Supreme Court has observed as under:

> "Ordinarily High Courts should not, in exercise of its discretionary writ jurisdiction, entertain a writ application/petition filed by an employee of the Government or its instrumentality, towards

the fag end of his service, seeking correction of his date of birth entered in his `Service and Leave Record' or Service Register with the avowed object of continuing in service beyond the normal period of his retirement."

3. In that view of the matter, no relief can be granted in this petition. Hence this petition is dismissed. Rule is discharged with no order as to costs.

(K.S. Jhaveri, J.)

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